

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

ADRIAN GUTIERREZ MARTINEZ,

Plaintiff,

vs.

LARRY W. KAHL, DON WHITMIRE, KRIS
BOE SIMMONS, JUVET CHE, Dr. MD;
DAVID MITCHELL, Dr. Ph.D.; and
AMANDA HOLMGREEN, Dr. Ph.D.;

Defendants.

8:22CV445

MEMORANDUM AND ORDER

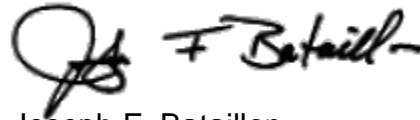
Plaintiff Adrian Gutierrez Martinez, a non-prisoner,¹ filed a Motion for Leave to Proceed in Forma Pauperis. [Filing No. 2](#). Upon review of Plaintiff's Motion, the Court finds that Plaintiff is financially eligible to proceed in forma pauperis.

IT IS THEREFORE ORDERED that leave to proceed in forma pauperis is granted, and the Complaint shall be filed without payment of fees. Plaintiff is advised that the next step in his case will be for the Court to conduct an initial review of his claims to determine whether summary dismissal is appropriate under [28 U.S.C. § 1915\(e\)\(2\)](#). The Court will conduct this initial review in its normal course of business.

¹ Plaintiff's Complaint, [Filing No. 1](#), indicates he is committed to a state mental institution. Thus, Plaintiff is not a "prisoner" within the meaning of the PLRA. See [Reed v. Clarke, No. 4:04CV3168, 2005 WL 1075092, at *1 n.1 \(D. Neb. May 5, 2005\)](#) ("The plaintiff is presently in the Lincoln Regional Center pursuant to a mental health commitment. The Prison Litigation Reform Act ('PLRA') does not apply to persons in custody pursuant to the Mental Health Commitment Act, as the definition of 'prisoner' in the PLRA does not include a person involuntarily committed for reasons of mental health.") (citing [Kolocotronis v. Morgan, 247 F.3d 726, 728 \(8th Cir.2001\)](#)).

Dated this 3rd day of January, 2023.

BY THE COURT:

A handwritten signature in black ink, appearing to read "J F Bataillon". The signature is stylized with a large, circular initial "J" and a long, horizontal stroke extending to the right.

Joseph F. Bataillon
Senior United States District Judge